

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

|   |   |                |
|---|---|----------------|
| <b>AMERICAN HEALTHNET, INC., A</b>          | ) |                |
| <b>Nebraska Corporation,</b>                | ) |                |
|   | ) |                |
| <b>Plaintiff,</b>                           | ) | <b>8:04CV9</b> |
|   | ) |                |
| <b>v.</b>                                   | ) |                |
|   | ) |                |
| <b>WESTSIDE COMMUNITY HOSPITAL, INC.,</b>   | ) | <b>ORDER</b>   |
| <b>An Illinois Corporation d/b/a SACRED</b> | ) |                |
| <b>HEART HOSPITAL,</b>                      | ) |                |
|   | ) |                |
| <b>Defendant.</b>                           | ) |                |
|   | ) |                |

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This matter is before the court on the motion (#94) of Westside Community Hospital d/b/a Sacred Heart Hospital ("Sacred Heart") for leave to file an amended counterclaim to add a cause of action for negligent misrepresentation. American Healthnet objects to the proposed amendment. (*See* #95).

Rule 15(a) of the Federal Rules of Civil Procedure provides that leave to amend a pleading "shall be freely given when justice so requires." Having reviewed the proposed pleading, and upon moving counsel's representation that the basis for the proposed amendment could not have been ascertained prior to certain depositions being taken, I find that the motion should be granted.

**IT IS ORDERED:**

1. The motion for leave to file an amended counterclaim (#94) is granted. Sacred Heart shall file and serve the amended pleading forthwith.
2. Upon a showing of necessity based on the filing of the amended counterclaim, discovery or depositions may be reopened. Any requests to reopen discovery or reconvene a deposition shall be raised by motion or stipulation and will be given expedited consideration. The parties shall bear their own expenses in this regard.

**DATED December 19, 2005.**

**BY THE COURT:**

**s/ F.A. Gossett**  
**United States Magistrate Judge**